

**AICPA Special Committee on Mobility**

**Final Report of Activities and Recommendations  
and**

**AICPA Board Consideration of the Committee's  
Recommendations**

**January 2007**

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## **AICPA Special Committee on Mobility Final Report and Recommendations**

### **Executive Summary**

- One of the stated intentions of the Uniform Accountancy Act (the UAA) was to achieve uniformity and promote mobility through the concept of Substantial Equivalency (Section 23 of the UAA). However, the UAA is a model act, and no one state has adopted it in its entirety, and no two states have adopted Section 23 in the same way. In addition, to date only 34 of the 55 jurisdictions have adopted all three of the "E's" (Examination, Experience and Education) which are required for Substantial Equivalency.
- The lack of uniformity has caused exactly what the UAA was intended to prevent – a confusing set of different standards and requirements in each state as to what constitutes interstate practice and how registration or notification of a practice privilege is to occur, and at what cost.
- In 2006 events in California and Illinois brought this inconsistency to national attention and to a crisis point; however, these rules and problems are not unique to any one state. In fact, there are practice privilege requirements for registration or notification in most states and jurisdictions and they all vary in differing degrees.
- This lack of uniformity, the complexities associated with compliance, the public interest of clients who need efficient ease of access to the best qualified CPA for their needs, and the difficulty and costs that CPAs and their firms are bearing, caused the AICPA to form the Special Committee on Mobility in April 2006 to consider the barriers to mobility and recommend solutions.
- The Special Committee on Mobility consisted of a diverse group of experienced leaders, with backgrounds in state regulatory matters, and perspectives from CPA firms of all sizes.
- The Committee considered the current UAA Section 23 language, the long history of mobility and cross-border practice, the regulatory environment, and the need to respect and protect the public interest. They considered the complex and global business environment, including the needs of publicly held companies and of small business. They agreed to six overarching principles as well as criteria that needed to be included in any solution to the mobility problem.
- After reviewing comprehensive legal analyses on the current status of state mobility requirements, dialoguing with impacted stakeholders, including representatives from the Accountants' Coalition, NASBA's Substantial Equivalency Task Force and members from differing sized

CPA firms, the Committee considered several different alternative solutions to the current mobility system. As part of this deliberative process, the Committee performed a pro/con analysis of each possible alternative.

- As a result of the Committee's review and analysis process, a unanimous decision was made to recommend a federally mandated state-based mobility provision.

In order for this provision to become effective, it would have to be enacted by the US Congress. If enacted as proposed by the Committee, a CPA would still have to have a license in good standing from the state of his/her principal place of business. However, under this proposed system, additional notification or licensing and registration requirements imposed by other states when a CPA entered the state to practice would be superseded. Firms would not have to be licensed or register unless so required by the state(s) in which they have a physical office. Both CPAs and CPA firms would consent to automatic jurisdiction in the state in which they afforded themselves of the practice privilege.

- In December 2006, The Board of Directors of the AICPA accepted the Committee's recommendation as a preferable alternative to the current situation. However, the Board also recognized the significant and renewed efforts recently underway by all stakeholders to encourage states to adopt a newly proposed mobility provision under UAA Section 23 that would not include notification. Accordingly, the Board has delayed the implementation of the Special Committee's recommendation until such time that the Board determines that the newly proposed Section 23 cannot be implemented in a uniform manner.

## **Background**

### **Committee Formation and Charge**

In April 2006, The Board of Directors of the American Institute of Certified Public Accountants (AICPA) created a volunteer committee, the Special Committee on Mobility, to identify unnecessary burdens and requirements that do not contribute to protecting the public interest and block CPAs from easily practicing across state lines. Scott Voynich, former chair of the AICPA Board of Directors, was appointed to chair the special committee.

This action followed a series of events, including the California Board of Accountancy's publication of revised rules that went so far as to require licensure of out-of-state CPAs and their firms who prepare California tax returns for their clients located outside of the state of California. In addition, the Illinois Board of Examiners took a similar action which would have greatly expanded the number

of CPAs who would be required to obtain an Illinois license that did not reside within the state of Illinois. These rules were complex, expensive and confusing, and came at a time when CPAs were at or nearing the commencement of income-tax filing season. Depending on the circumstances, these requirements could have prevented CPAs from providing any services for several months, if not the entire year. Taken to their logical conclusion, these rules if adopted in a similar manner by every state would have required every CPA preparing multi-state tax returns to obtain a license or registration in every state in which their clients filed tax returns.

As a result of well-articulated responses by the AICPA, various State Societies and other stakeholders, these two state regulatory requirements were either modified or deferred for further consideration.

This sequence of events served to create heightened awareness of the potential extra-territorial provisions of other current state licensing requirements and a related lack of understanding and compliance with those requirements. The implications extended beyond tax return preparation; in fact, depending upon the state, these requirements had an impact on every possible service performed by CPA firms. Many CPA's are not aware of the myriad of differing requirements, and for those who are, they find the requirements to be confusing and inconsistent.

The AICPA Board believed that this was a high-priority initiative and it expected the Special Committee would provide significant resources to states seeking to enact or to revise mobility provisions within their state accountancy laws or regulations to provide for uniformity and consistency of a mobility system as envisioned under the Uniform Accountancy Act (UAA). In addition, the Special Committee was also asked to consider the viability of the current 'substantial equivalency' model and, if necessary, work to develop modifications to improve mobility. The goal was a system that provides both ease of mobility for CPAs while at the same time giving regulators the appropriate and necessary tools to protect the public. The AICPA has a long history of supporting a state-based regulatory system, and is dedicated to implementing a system to eliminate the artificial barriers to interstate practice, while at the same time ensuring that the public is adequately protected.

Under the "substantial equivalency" concept, which was developed by the AICPA and the National Association of State Boards of Accountancy (NASBA) as part of the UAA, CPAs with a valid license from a state with CPA licensing criteria that are "substantially equivalent" to those outlined in the UAA, or who individually meet those criteria, can practice in another state without obtaining a license from that state. However, "substantial equivalency" is not working as effectively as was envisioned because many of the 34 states that have enacted it have modified the provisions to fit their states' own unique policies, diluting the impact of the uniformity of the UAA provision.

With the current system as adopted by state licensing agencies across the country, CPAs and CPA firms now have to comply with a multitude of different requirements from state to state.

This issue has been further framed by today's dynamic business marketplace which has erased geographic boundaries and dictates that CPAs, in order to serve their clients and meet their business needs, be able to practice without unwarranted difficulty across state lines. To date, the current model for gaining practice privileges, known as 'substantial equivalency,' has not changed the process sufficiently to allow CPAs to serve their clients effectively and efficiently without unnecessary mobility burdens.

### **Committee Composition**

The members of the Special Committee represented AICPA leadership including past chairs and board members, chairs of executive committees, and experienced members of the UAA Committee. The members held several decades of collective experience in state regulatory matters. State Society past presidents and government affairs leadership were also included. In addition, several of the members had current or previous experience serving on their state board of accountancy. The Committee was professionally staffed with AICPA senior management who brought perspective and expertise regarding state regulatory matters as well as national legislative issues.

Additionally, the members included representation from CPA firms of varying sizes, ranging from the largest of firms to a sole practitioner, as well as a member in industry and a State Society Executive Director. Their firms' practices encompassed all facets of the CPA profession, including audit, tax, consulting, litigation support, valuation, financial planning and assurance services.

### **Uniform Accountancy Act and Section 23**

The preface to the Uniform Accountancy Act, Fourth Edition states, in part:

"Differing requirements for CPA certification, reciprocity, temporary practice, and other aspects of state accountancy legislation in the 55 American licensing jurisdictions (the 50 states, Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands) constitute artificial barriers to the interstate practice and mobility of certified public accountants. The Uniform Act seeks to eliminate such differences and the barriers

that they pose to effective practice of CPAs under modern conditions through the standard of "substantial equivalency" that was added to the Act in 1998.

Many of the organizations requiring the professional services of certified public accountants transact business on an interstate, and even on an international, basis; as a result, the practice of CPAs typically extends across state lines and, often international boundaries as well. Thus, there is compelling need for the enactment of uniform state accountancy laws that foster rather than inhibit interstate professional practice and for laws that provide appropriately for international practice.

This Uniform Act is provided as a single comprehensive piece of legislation that could be adopted in place of existing state laws. Because there is an accountancy law now in effect in every jurisdiction, however, the Uniform Act is also designed to the extent possible with separable provisions, so that particular parts of this Act could, with appropriate amendments, be added to existing laws instead of replacing such laws entirely. In the interest of uniformity and to promote mobility through the substantial equivalency standard, the AICPA and NASBA strongly urge states to adopt the entire Act."

The Uniform Accountancy Act (UAA) is a model act, published jointly by the AICPA and NASBA. Whereas each state has enacted some changes to align with the sections promulgated in the UAA, no one state has enacted the entire Act. Moreover, no two states have enacted or implemented it in exactly the same way. This is especially important with substantial equivalency, where in order for the concept of a uniform mobility system to work, each state must enact and implement the provision in exactly the same way.

The provision of substantial equivalency is contained in Section 23 of the UAA. Section 23 provides that as long as an individual has a valid certificate or license as a CPA in the state of his/her principal place of business and either:

- That state is substantially equivalent, or
- If the individual has personally met the requirements of substantial equivalency

then that individual shall have all of the privileges of certificate holders and licensees of states other than that of their principal place of business.

The criteria for substantial equivalency are commonly described as the "Three E's" – that is, that the state requires the Uniform CPA Examination, that the licensee have at least one-year Experience requirement and that the state mandate the 150-hour Education requirement. These requirements are defined elsewhere in the UAA.

Section 23 also includes the requirement that any individual who exercises the privilege, consent as a condition of the grant of this privilege, to the personal and subject matter jurisdiction and disciplinary authority of the other state's Board of Accountancy, and agrees to comply with that State's Act and Board rules and to

the appointment of that State Board as agent for process in any action or proceeding.

Additionally, the current version of Section 23 also includes the following language:

"However, such individuals *shall notify* the Board of their intent to enter the state under this provision."

In 1997 (the time at which the Section 23 concept was added to the UAA), the drafters seriously considered omitting any formal notification requirement, preferring a "driver's license" concept instead. However, ultimately, the drafters agreed to provide for "simple notification of intent to enter". It is this notification provision, as it has been embodied in statute, rule and/or policy, which is at the heart of the problems with, and the barriers to, achieving the uniform mobility that was envisioned in the joint creation of the UAA and described in the preface of the UAA Section 23 provision.

[Note: As of this writing, a proposed revision for exposure to Section 23 was authorized for exposure by the Boards of Directors of the AICPA and of NASBA, and was released for public comment until May 15, 2007. This revision proposes to eliminate the "notification" requirement in Section 23 of the UAA. If these revisions are ultimately approved by the AICPA and NASBA and embedded into the UAA, it will not have the force of law until and unless each state individually considers, and enacts, these changes into statutes, rules and/or policies. The Exposure Draft also removes the concepts of firm substantial equivalency and master notices for firms, but it does not expressly eliminate the concept of firm registration.]

### **Mobility and the Identified Barriers to Achieving a Uniform System**

The Committee began its work considering the global concept of mobility and the barriers that have been created because of inconsistent enactment and implementation of UAA Section 23. Those barriers included items such as:

- Inconsistent application of when notification is required from state to state
- Requiring applicants for substantial equivalency to also obtain a firm permit when certain services such as attest are performed;
- Requiring licensees to give notice prior to commencing or even considering practice in another state;
- Not providing licensees with adequate information such as posting proper forms on their website for licensees to file prior to entering a state.



The Committee determined that the "notification" requirement was at the core of these barriers; while at the same time did little to nothing to protect the public. Therefore, the Committee concluded that eliminating the notification requirement was an important aspect of a uniform mobility system.

Four states – Ohio, Virginia, Missouri and mostly recently Wisconsin – have already moved to a mobility system without notification and have proved that the concept can work without any documented harm to the public.

The Committee was firm in its resolve that whatever solution was ultimately developed, it would have to be a true solution for the individual CPA as well as for his/her firm.

The Committee also agreed that an analysis would have to be performed on any potential solution to assure that mobility could be achieved without any unnecessary additional requirements and or unintended consequences that did not contribute to a uniform system or protect the public's interest.

#### **Overarching Principles and Criteria Established by the Committee**

After discussion and consideration of the barriers to the current mobility system and in alignment with the Committee's charge, the group agreed that any solution to mobility must be based on the following overarching principles:

- Respect and protect the public interest
- Ensure uniform practice privileges in all jurisdictions
- Maintain the credibility and value of the CPA certificate
- Enable a credible enforcement process
- Be administratively efficient
- Provide the ability to be responsive to the changing business environment

In addition to these principles, which guided the Committee's work in considering alternative approaches, the Committee also agreed to four basic criteria that should be included in any mobility system:

1. No notification
2. No fees
3. No additional requirements (e.g.; firm licensure, peer review, CPE, ethics requirements)
4. Licensee submits to automatic jurisdiction of the state that he/she is seeking practice privileges

## **Consideration of How Lack of Mobility Impacts:**

### **The Profession**

The Committee discussed the impact on the profession that has resulted because of the current mobility system. Consideration was given by members relative to their own firms, as well as that of their peers by firm size.

- The smaller firms find compliance to be burdensome and time-consuming, and they do not have the resources to assure themselves that they are in compliance with each state's different respective requirements. These firms also have more difficulty with the out-of-pocket and administrative costs – they must either pass these costs on to their clients, which may not be feasible, or their only other alternative is to absorb the costs in their firm overhead. In addition, because many states require licensing or registration before even making a proposal to a prospective client, small firms find these requirements to be a barrier to entry and/or accepting an engagement.
- The larger firms have clients with especially diverse and complex corporate structures. As a result, the larger firms have had to create departments of personnel devoted exclusively to compliance with state rules and registrations. Even something as routine as a time-sheet has become laden with information about the states which may have been involved and each hour spent by each person that worked on the engagement. With all of that in place, and the related overhead, these firms still find it difficult to assure themselves that every person on an engagement is properly licensed or registered on a timely basis in order to serve clients with complex business and financial affairs. This is especially difficult when a firm is serving a client which does business in many or possibly all 55 jurisdictions, yet the individual CPA may or may not interact with the operations in all of the entity's locations – or go “boots on the ground.”
- Firms of all sizes shared common concerns about overall inconsistencies in state regulations, rules and policies. The larger firms find that they are burdened with complying with these rules in nearly all states, each and every year – which is further complicated with rules for multiple offices. The smaller firms are subject to the dynamic activities of their clients, so that these firms are providing services related to one set of states in one year, but another set of states in another year – and they may not know of all of the subject states until they discover the information in the course of the engagement.

## **Business and the Capital Markets**

In addition to the compliance concerns with the current mobility system, of greater importance and public interest is the overriding need to serve the needs of clients by giving them access to the best qualified CPA and/or CPA firm – regardless of geographic location. In today's dynamic business world of increased globalization, business does not limit services to geographic boundaries, and neither should the CPAs that serve them.

The Committee supported the concept that allowing a client to have ease of access to their trusted business advisor and to be able to select the CPA firm that was the best-suited to its particular need or niche was paramount to the public interest.

The Committee concluded that the current system is an impediment to robust competition from qualified service providers without also imposing an unreasonable burden on the CPA and their firm. Moreover, the Committee expressed a concern that the imposition of multiple notification and practice privilege requirements did not serve to enhance public protection for that client or for third parties. Instead, the Committee believed that the CPA's own principal-state-of-business licensing provisions combined with the CPA's automatic consent to jurisdiction by practicing outside of his/her state of licensure is what provides the public protection.

## **Outreach to Stakeholders and Other Licensed Professions**

As part of its work, the Committee also reviewed an analysis on how other professions are regulated (e.g. architects, dentists, engineers, nurses) and how they gain practice privileges in other states.

The Committee also had an opportunity to hear from representatives of The Accountants' Coalition and of NASBA's Substantial Equivalency Task Force regarding mobility and their efforts to implement the current substantial equivalency provision.

Additionally, the Committee was assisted by research provided by an outside law firm, as well as input from the general counsel of the AICPA and staff from the AICPA Washington, DC office.

## **Consideration of Alternative Approaches**

In considering the identified obstacles and barriers to the current mobility system, potential solutions to overcoming those barriers, as well as the previously agreed to overarching principles for a mobility system, the Committee considered various alternatives to achieving a uniform mobility system, including taking no additional action other than to continue to pursue uniformity under the current state based mobility system that exists in Section 23 of the UAA.

Alternatives that were discussed include:

- A National Licensing System
- A State Compact
- A Federally Mandated Uniform State Based System

Variations of these alternatives were further explored and tested through a series of pro-con analyses and additional research and considerations.

## **The Recommendation of the Special Committee**

### **A Federally Mandated State-Based Mobility System**

After careful consideration, and with further consultation of legal research, the Committee agreed that a federally mandated state-based mobility approach would best achieve uniformity, ease mobility for CPAs and give regulators the necessary tools to protect the public.

The Committee believed that this approach represented the best alternative to the existing mobility model because it primarily worked within the framework of the existing state regulatory system, by preserving licensing, discipline and enforcement at the state level and with state boards of accountancy.

Specifically, the Committee's recommended mobility system would provide for a federally mandated national mobility provision that would need to be authorized by Congress.

The provision would not require individual state notification,

- Provided that an individual has a license in good standing from any state, and
- The individual and the CPA firm automatically consents to the personal and subject matter jurisdiction and disciplinary authority of any state's Board of Accountancy for services provided, as well as agreeing to comply

with the State's Act and Board rules, and to the appointment of that State Board as agent for process in any action or proceeding.

Under those conditions:

- The CPA would only need a valid license from the state of his/her principal place of business, with no additional requirements for practice privilege outside of that state.
- There would be no restrictions on the use of the CPA title or scope of services.
- There would be no additional forms to complete or fees to pay in any other state.
- The provision would state that under the conditions above the CPA would be allowed to practice in a state other than his or her principal state of practice without further licensing or notification to the other state.
- The provision would state that no state shall impose a law or regulation requiring any firm registration or licensure, unless that firm has a physical office location in that state.

The Committee unanimously supported this recommendation and believes that it achieves the goal of mobility and all of the overarching principles agreed to by the Committee. The federally mandated state based approach is respectful of the disciplinary process of the respective State Boards of Accountancy and respects and protects the public interest. It creates a solution that is feasible and efficient for CPAs from firms of all sizes.

Because it was not charged with determining implementation strategies, the Committee finalized its recommendation and presented it to the AICPA Board at its December 2006 meeting.

RESPECTFULLY SUBMITTED,  
*The AICPA Special Committee on Mobility*

Scott Voynich, Chair, Georgia  
Rich Caturano, Massachusetts  
Kathy Eddy, West Virginia  
Bill Ezzell, District of Columbia  
LaVern Gentry, Idaho  
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Olivia Kirtley, Kentucky  
Bea Nahon, Washington  
Mike Ueltzen, California

## **Addendum**

### **AICPA Board Consideration of Committee's Recommendation**

To complete its charge, the Committee's recommendation was presented to the AICPA Board of Directors at its December 2006 meeting.

During the presentation, the Board was reminded of the external activities regarding mobility that had occurred since the Committee began its work in April 2006, including:

- Agreement by AICPA and NASBA leadership to remove the notification requirement from UAA Section 23
- Renewed interest on behalf of state societies and state boards of accountancy to implement a uniform Section 23 provision

After a comprehensive presentation and robust discussion by the AICPA Board, the following resolution was adopted:

#### **Board Resolution**

#### **On the Recommendation of the Special Committee on Mobility *as adopted by the AICPA Board on 12/8/06***

BE IT RESOLVED that the AICPA Board of Directors, after careful consideration of the recommendation of the Special Committee on Mobility, which endorses a federally mandated uniform state based mobility provision, hereby resolves to continue pursuing a state-by-state approach to mobility through the proposed revised Uniform Accountancy Act's Section 23 substantial equivalency provision which does not include a notification requirement; and

BE IT FURTHER RESOLVED that the Board adopts the federally mandated uniform state based mobility provision as recommended by the Special Committee as the best alternative to a state-by-state approach; and

BE IT FURTHER RESOLVED that the Board delays the implementation of the Special Committee's recommendation until such time that the Board determines that Section 23 cannot be implemented in a uniform manner; and

BE IT FURTHER RESOLVED that the Board hereby authorizes an effort by the AICPA to communicate with and educate relevant parties concerning the disparities among the states and the difficulties associated with state requirements related to mobility for CPAs, including communicating on the impact on interstate commerce and the users of CPA services.